



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Patent Cooperation Treaty  
Legal Office

Address: Assistant Commissioner for Patents  
Box PCT  
Washington, D.C. 20231

JUL 03 2000

Richard E. Jenkins  
Suite 1400 University Tower  
3100 Tower Boulevard  
Durham, NC 27707

In re Application of  
NEUMAYR

Application No.: 09/485,277

PCT No.: PCT/EP98/05030

Int. Filing Date: 07 August 1998

Priority Date: 07 August 1997

Attorney Docket No.: 1328/3

For: PROCESS TO MANUFACTURE A  
CELLULOSE FIBRE FROM  
HYDRATE CELLULOSE

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is a decision on applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed in the Patent and Trademark Office (PTO) on 17 May 2000. The required petition fee of \$605.00 (37 CFR 1.17(m)) has been included.

**BACKGROUND**

On 07 August 1998, applicant filed international application PCT/EP98/05030, which claimed priority of an earlier application filed 07 August 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 February 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 February 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 07 February 2000.

On 03 February 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*: the requisite basic national fee as required by 35 U.S.C. 371(c)(1), an English translation of the international application as required by 35 U.S.C. 371 (c)(2) and an oath or declaration as required by 35 U.S.C. 371 (c)(4). Applicant also submitted an **unsigned** "Statement Claiming Small Entity Status (37 CFR 1.9(f) and 1.27(b) -- Independent Inventor"

On 07 February 2000, the application became abandoned for failure to pay the basic national fee for a U.S. national stage entry application. As applicant's "Statement Claiming Small Entity Status (37 CFR 1.9(f) and 1.27(b) -- Independent Inventor" was not signed, the basic national fee submitted on 03 February 2000 was insufficient.

On 17 May 2000, applicant filed the present petition along with a signed "Statement Claiming Small Entity Status (37 CFR 1.9(f) and 1.27(b) -- Independent Inventor."

### DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional." and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the required reply is a signed "Statement Claiming Small Entity Status (37 CFR 1.9(f) and 1.27(b) -- Independent Inventor." which renders the basic national fee submitted on 03 February 2000 sufficient.

As to Item (2) the appropriate small entity petition fee of \$605.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicant's statement that, "the entire delay in filing the required national stage application was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

### CONCLUSION

For the reasons above, the petition for revival is GRANTED.

This application will be given an international application filing date of 07 August 1998 and a date of **17 May 2000** under 35 U.S.C. 371 and 102(e).

Application No.: 09/485,277

-3-

This application is being returned to the DO/EO/US for processing in accordance with this decision.



Leonard E. Smith  
Legal Examiner  
PCT Legal Office



Derek A. Putonen  
Petitions Attorney  
PCT Legal Office  
Tel: (703) 305-0130  
Fax: (703) 308-6459